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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,796	12/20/2001	Mark S. Franke	KCC-16,487	9402

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EXAMINER

REICHLER, KARIN M

ART UNIT	PAPER NUMBER
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3761

11

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/027,796

Applicant(s)

FRANKE ET AL. *OK*

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 12-18, 38 and 39 is/are pending in the application.
4a) Of the above claim(s) 14 is/are withdrawn from consideration.
5) ☒ Claim(s) 38 and 39 is/are allowed.
6) ☒ Claim(s) 1-4, 7, 8, 12, 13 and 15-18 is/are rejected.
7) ☒ Claim(s) 5-6 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of the invention of Group 1 and the species of Figure 4B in Paper No. 8 is still acknowledged.

2. Claim 14 is still withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8.

Claim 14 is still withdrawn as this claim is drawn to features not shown in the elected species of Figure 4B, i.e. Figure 4B does not show tearable structure. Although Applicant elected without traverse, in response to Applicant's remarks on page 15, of the 12-29-03 response, page 32, line 11-page 34, line 20 of the specification do not describe the elected species of Figure 4B including tearable structure, i.e. "In one embodiment".

The restriction and election are therefore still deemed proper.

Specification

Drawings

3. The formal drawings filed 3-26-02 have been placed in the file but approval thereof is held in abeyance until the issues discussed infra with respect to the Figures have been resolved.

4. The drawings were received on 12-29-03. These drawings are not approved. The response filed 12-29-03 with respect to the Figures is not in compliance with 37 CFR 1.121 effective 7-30-03 because it did not include marked up and properly labeled copies of the Figures

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or an explanation of what the changes made were either in the drawing amendments or remarks section other than generic remarks as to amendments having been made thereto. The replacement sheets have been placed in the file and will be considered upon compliance with 37 CFR 1.121.

5. The drawings are objected to because Figure 4A should be labeled "PRIOR ART", see page 4, line 12. In Figure 4B the lines from 53-54, 56 and 58 should be dashed to denote underlying structure. In Figure 4B, 86 should be shown attached to the portion of 134 to the left thereof. This also applies to 82 in Figure 5 and 86 in Figure 8. In Figure 6A, 84 should be 82. In Figure 6B, 86 is not shown accurately. This also applies to Figure 10. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Description

6. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For example:

7. The disclosure is objected to because of the following informalities: In the Figures, i.e. Figure 6B, what is 88? Appropriate correction is required.

Claim Language Interpretation

8. “Bonded” and “connected” are defined as set forth on page 5, lines 16 et seq. and page 6, lines 1-2. It is specifically noted that “bonded” refers to both bonding which is direct and that which is indirect. “Disposable” is defined as set forth on page 6, lines 7-8. “Ribbon cover” is defined as set forth on page 11, lines 10-12. “Elastic” is defined as set forth on page 6, lines 10-14. “Disposable article”, “absorbent garment”, and “personal care garment” are defined as set forth on page 13, line 19-page 14, line 1. The terminology “side seam” is defined on page 11, lines 17-19.

Claim Rejections - 35 USC § 102

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 1-4, 7-8, 12-13, 15-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen et al '637.

With regard to claims 1-4, 12-13 and 15-16: See title, abstract, Figures 3-5A, line between 18a and 18b and side edge of seam, col. 7, line 9- col. 8, line 20(and thus '846, Figures 1-3, and '681 at col. 6, lines 25-35, 3/16” seam is about 5mm), col. 15, line 64- col. 16, line 56, i.e. garment is 20, front region is 56, rear region is 58, crotch region is 57, side panels are adjacent 62 and include elastomeric lamina 47, side seams are 10, ribbon cover is 18, 18a or 18b, ribbon covers are 18a and 18b. Attention is again directed to the claim language interpretation section supra, i.e. “bonded” can be direct or indirect, i.e. the ribbon cover(s) are bonded directly or indirectly to every other portion of the garment. It is also noted that the claims do not require

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the or each ribbon cover cover the entire side seam and only extend from the waist opening to the leg opening, i.e. can't be longer than the seam.

With regard to claims 7 and 18: see Figures, e.g. seam is 5 mm and cover 18b extends width of seam and then across the entire back region.

With regard to claim 8: See line between 18a and 18b which is coincident to a side seam in Figure 5 and also see 18 in Figures 3-4, e.g. cover 18b coincident with a side edge of seam so extends 0 mm beyond such edge in the direction of the front region.

11. Claims 1, 12-13 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosch et al '394.

With regard to claims 1, 12-13, and 15-17: See title, Figures 2, 4, 6, col. 2, lines 36-41 (and thus '757, col. 5, lines 28-29), col. 2, lines 50-53, col. 3, line 65-col. 4, line 4, col. 4, lines 13-50, col. 4, line 59-col. 5, line 39, col. 5, line 61-col. 6, line 5, col. 6, lines 38-54, col. 9, line 31-col. 10, line 56, col. 4, lines 3-4, i.e. garment is 10, front region is 20, rear region is 22, crotch is 24, side panels are 26-28 which comprise elastic material, side seams are 44, 46, ribbon cover is 14, 94 or 96, ribbon covers are 94 and 96 and the ribbon covers comprise elastic material. Attention is again directed to the claim language interpretation section supra, i.e. "bonded" can be direct or indirect, i.e. the ribbon cover(s) are bonded directly or indirectly to every other portion of the garment. It is also noted that the claims do not require the or each ribbon cover cover the entire side seam and only extend from the waist opening to the leg opening, i.e. can't be longer than the seam.

With regard to claim 18: see Figures, i.e. 94 and 96 wider than a width of the side seam. It is noted that the claims do not require each ribbon cover to cover the entire associated seam by

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itself.

Allowable Subject Matter

12. Claims 5-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and overcoming any formal matters noted supra. Claims 38-39 are allowed because the prior art references, alone or in any combination, do not teach a ribbon cover of the specified width in the personal care garment environment.

Response to Arguments

13. Applicant's remarks with regard to matters of form and the election have been considered but are either deemed moot in that the issue discussed has not been reraised or are deemed not persuasive for the reasons discussed supra. Applicant's remarks with regard to the allowable subject matter have been noted. Applicant's remarks with regard to the prior art rejections have been noted but are deemed not persuasive because such are deemed narrower than the claim language, e.g. the specifically defined term "bonded", and the teachings of the prior art as set forth supra. Also see the art cited infra.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Stein (element 9) and Wood (element 20) references teach covers for side seams in personal care garments. Maine and Lane teach seam covers.

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15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any new grounds of rejection were necessitated by the amendments to claims 1 and 15.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (703) 308-2617. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 308-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

K. M. Reichle
Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
March 9, 2004